Jim Trapani
579 NE 44th Ave.
Ocala, Fl 34470-1421
June 22, 2005

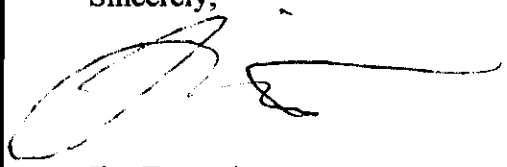
Marlene Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

RE: Petition for Rulemaking

Dear Ms. Dortch,

Please accept this Petition for Rulemaking for immediate processing. Your consideration in this matter is greatly appreciated.

Sincerely,



Jim Trapani

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

JT Communications - Ocala, Florida	:	Modification of rule 73.1660 –
&	:	("Acceptability of broadcast transmitters")
Erickson Broadcast Service- Albany, Oregon	:	of the FCC Rules and Regulations :
Petitioners	:	

PETITION FOR RULEMAKING

In this PETITION, the Petitioners request that the FCC modify FCC rule 73.1660 ("Acceptability of Broadcast Transmitters") so that transmitter acceptability utilized for LPFM stations will entail the same requirements as transmitter acceptability utilized for full-powered and Non- Commercial, Educational (NCE) stations.

OVERVIEW:

Current FCC rule 73.1660 requires LPFM stations bear additional procedures and expenses for installation and operation of FM transmitters, while full-powered and NCE stations are able to install and operate transmitters with less stringent requirements. Currently, LPFM transmitters must be *type-certified*, while transmitters utilized in full-powered and NCE stations only need to be *type-verified.* This petitioner has reviewed the FCC's equipment authorization history for FM transmitters, and based on scientific fact and FCC comments, concludes that the transmitter equipment authorization requirements should be the same for both classes of stations.

EQUIPMENT AUTHORIZATION HISTORY:

In 1997, The FCC issued NPRM 97-084, in which it proposed to simplify and streamline the equipment authorization processes benefiting both large and small manufacturers, as well as encouraging the development of innovative products for consumers. In the NPRM adopted, the Commission stated that by improving the equipment authorization process, new products could be introduced into the market more rapidly. In this NPRM, the Commission proposed amendments to Parts 2, 15, 18 and other rules to: 1) simplify the existing equipment authorization process; 2) deregulate the equipment authorization requirements for certain types of equipment; and 3) provide for electronic filing of applications for equipment authorization. In the NPRM, the Commission commented as follows:

> "...The Commission has carried out its responsibilities under Section 302 through two principal means. First, the Commission has established technical regulations for radio transmitters and certain electronic equipment to control radio frequency interference. Second, the Commission has required such devices to be authorized to ensure that the equipment meets the technical requirements...The equipment authorization process is accomplished largely through use of the private sector. That is, the manufacturer tests the product to determine whether it meets the technical requirements. In many cases the manufacturer self-approves its equipment. However, for certain types of equipment that have been found to pose a strong risk of noncompliance, the Commission requires submission of a written application for equipment authorization. The Commission may request a sample of the device to check the results, however, this is done in a small minority of cases.
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> DISCUSSION
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> 4. The Commission's equipment authorization program has been a resounding success in controlling interference. Today, hundreds of millions of radio transmitters, consumer products and electronic devices all share the airwaves with remarkably little interference. Continuing to ensure compliance with our technical requirements through the equipment authorization program is even more important for the future...We recognize that companies are making enormous investments to obtain licenses to use the spectrum and to construct communications systems. These

investments and the success of new services could easily be jeopardized by the threat of radio frequency interference...We also note that vital policy objectives, such as controlling the environmental effects of radio frequency radiation, closed captioning of TV receivers, compatibility of TV receivers with cable systems, and prohibitions against scanning receivers that are capable of receiving cellular radio transmissions, are being ensured in whole or in part through the equipment authorization program. We believe that the equipment authorization program remains essential to the Commission's mission.

5. At the same time, we note that the current equipment authorization procedures have evolved over the course of more than 25 years. We observe that the current multiplicity of equipment authorization processes has resulted in an extensive and complicated set of regulations. Manufacturers are often confused as to the requirements and procedures they must follow, which can sometimes lead to delays in introducing products to the market. Such delays can cause a manufacturer to lose its competitive advantage. The fast pace of today's telecommunications and electronics industries has heightened the need for equipment authorization procedures that are clear, rapid and efficient. Accordingly, we are initiating this proceeding on our own motion to provide a simpler, less burdensome path for products to be marketed in the United States...We believe that submittal and review of equipment authorization applications to the Commission is no longer warranted for certain equipment where the technical requirements are met with little difficulty, the test methods are widely understood, interpretive questions arise infrequently, and there has been an excellent record of compliance. Accordingly, we are proposing to relax the equipment authorization requirements for various types of equipment based on our experience in reviewing applications and our assessment of the appropriate procedure required to ensure continued compliance...Our specific proposals are as follows:...Relax the requirements for Part 73 standard broadcast (AM transmitters), FM transmitters, television transmitters, and antenna phase monitors from notification to verification."

Conclusively, the FCC adopted the rules, allowing FM broadcast transmitters to be verified for compliance. When the FCC created the LPFM service , they issued the following comments in NPRM 99-25 regarding LPFM transmitters:

"116. Transmitter Certification. In the Notice, we tentatively concluded LPFM stations should utilize only transmitters deemed "type certified" by the Commission's Office of Engineering and Technology (OET) to ensure the integrity of the FM radio spectrum. Type certification would prevent the use of transmitters with excessive bandwidth or

> modulation, spurious emissions, excessive power output, or insufficient frequency stability, which could cause interference to other existing stations. A large majority of commenters concurred with this conclusion. A few licensed amateur radio operators felt that they should be exempt from this requirement, asserting that many amateurs were capable of creating suitable equipment. However, we remain concerned about the significant potential for interference caused by non-type certified transmitters, particularly given the interference-protection standards we are adopting. Nor do we believe that type certification of equipment by the manufacturer will add appreciably to the cost of equipment for a low power broadcast radio station. Accordingly, we will adopt the certification requirement as proposed in the Notice. We emphasize that the use of non-type certified transmitters would not be tolerated. Use of non-type certified transmitters would subject the licensee to enforcement action including, but not limited to fines. "

The FCC issued Report *and Order* (MM Docket 99-25, FCC 00-19), released January 27, 2000 with the following rule:

> "Section 73.1660 is modified as follows:
>
> §73.1660 Acceptability of broadcast transmitters.
>
> (a) An AM, FM, LPFM, or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in Part 2 of the FCC rules."

Later, the FCC issued MO&O 00-349, stating the following:

> "...In most cases, these standards will be met through the use of certified equipment without need for further adjustment by the LPFM licensee. LPFM stations will be required to adhere to the 200 kHz channel bandwidth applicable to full service stations, as well as the out-of-channel signal attenuation requirements in 47 C.F.R. § 73.317 [via reference in § 73.508], the center frequency drift limits in 47 C.F.R. 73.1545(b), and the limits on modulation in 47 C.F.R. § 73.1570 (a) and (b)." Report and Order, 15 FCC Rcd at 2248, 109. In this regard, we note that one of the rules modified in the Report and Order, 47 C.F.R. § 73.1660, inadvertently specified verification rather than certification procedures for LPFM stations. We are correcting the rules accordingly to correspond to our decisions in the Report and Order...."

The current rules in place regarding non-LPFM and LPFM transmitter acceptability are as follows [emphasis added to specific LPFM rule] (only portions relating to subject are listed):

"Sec. 73.1660 Acceptability of broadcast transmitters.

(a)(1) An AM, FM, or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.
[(2) An LPFM transmitter shall be certified for compliance with the requirements of this part following the procedures described in part 2 of the this chapter]."

Verification is a self-approval procedure whereby the responsible party (reference Section 2.909) makes measurements or takes the necessary steps to insure that the equipment complies with the appropriate technical standards. Changes may be made to the circuitry, appearance, or other design aspects of the device provided the responsible party retains on file updated test data and circuit drawings showing that the equipment continues to comply with the FCC rules.

Certification is an approval process requiring that the responsible party submit an application to the FCC Laboratory or to a designated Telecommunication Certification Body (TCB) for review and approval.. The application must be in an electronic format and include a complete technical description of the product and a measurement report showing compliance with the FCC technical standards.

PETITIONER COMMENTS:

Transmitters used on full-powered and NCE stations need only be verified by the FCC. Full-power station transmitters can include powers up to 30kW. Technical parameters at these high power levels such as spurious emissions, harmonics, stability, and other technical measurements must be maintained to the same rules as a transmitter operating at the 100-300 watt range.
In the event of a malfunction or technical irregularity, higher-powered transmitters are capable of causing greater interference to broadcast services than that of a transmitter utilized on an LPFM station. However, the LPFM transmitters must undergo a more severe test criteria for

acceptability. Therefore, an LPFM station is subject to the same technical rules as a full-powered station in regards to technical requirements of sections 72.297, 72.322, 73.508, 73.1545, and 73.1580, *with the exception of 73.1660.* All LPFM stations must encounter an additional restrictive selection criteria in comparasion to full-powered and NCE stations. This in effect, has created a restraint of trade against the LPFM stations, as outlined in U.S. Code Title 15, *specifically:*

1- Full power stations are able to install and operate *non-certified* transmitters, while LPFM stations are prohibited from the larger availability of non-certificated equipment.

2- There is no scientific or technical explanation that an LPFM transmitter will exhibit any increased technical irregularities or tolerance failures that would preclude it from operation that the type-verification transmitters full-powered stations are allowed to install and operate. Conversely, there is no scientific or technical explanation that a full-powered transmitter would exhibit any increased technical irregularities or tolerance failures that would preclude it from operation at an installation for an LPFM station.

3- Type-Certified transmitters bear an additional expense to the manufacturer, which is typically passed on to the purchaser. Non-certificated transmitter manufacturers do not bear this expense. Therefore, LPFM stations must bear additional the additional expense that the full-powered and NCE stations do not bear during transmitter purchase.

4- Manufacturers lose their competitive advantage by requiring LPFM transmitters be certified, while non-LPFM transmitters remain verified.

CONCLUSION

We therefore file this **PETITION FOR RULEMAKING** to the Federal Communications Commission, and request **removal** of the Certification requirement for LPFM stations, and **modify** 73.1660 to read as follows:

Sec. 73.**1660** Acceptability of broadcast transmitters.

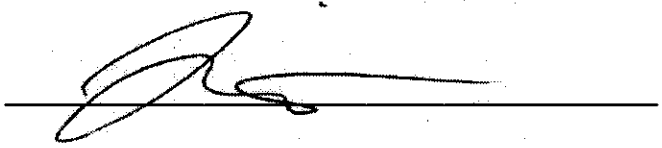
(a)(1) An AM, FM, LPFM or TV transmitter shall be verified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.

(2) (deleted)

(b) A permittee or licensee planning to modify a transmitter which has been approved by the FCC or verified for compliance must follow the requirements contained in Sec. 73.1690.

(c) A transmitter, which was in use prior to January 30, 1955, may continue to be used by the licensee, and successors or assignees, if it continues to comply with the technical requirements for the type of station at which it is used.

(d) AM stereophonic exciter-generators for interfacing with approved or verified AM transmitters may be certified upon request from any manufacturer in accordance with the procedures described in part 2 of The FCC rules.



_____06/21/2005___
date

Jim Trapani, President
JT Communications
579 NE 44th Ave.
Ocala, FL 34470-1421
352-236-0744

____06/21/2005 ____
date

Ron Erickson, President
Erickson Broadcast Service
4920 Chi Court SE
Albany OR 97321
888-830-8223